

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

SHEEBA B. ORIKO,

Plaintiff,

v.

STARBUCKS CORPORATION, a  
Washington corporation; and HEATHER  
SCHMIDT,

Defendants.

Case No. C07-5230FDB

ORDER GRANTING DEFENDANT  
SCHMIDT'S MOTION TO DISMISS  
PLAINTIFF'S TITLE VII CLAIMS  
FOR FAILURE TO STATE A CLAIM

Defendant Heather Schmidt moves for an order dismissing Plaintiff's Title VII claims against her for the reason that civil liability under Title VII of the Civil Rights Act of 1964 for employment discrimination and retaliation does not extend to individuals in their personal capacity.

Dismissal is proper under Fed. R. Civ. P. 12(b)(6) when the plaintiff lacks a "cognizable legal theory" or has failed to present "sufficient facts alleged under a cognizable legal theory." *Balistreri v. Pacifica Police Dept.*, 901 F.2d 696, 699 (9<sup>th</sup> Cir. 1990); accord *Navarro v. Block*, 250 F.3d 729, 732 (9<sup>th</sup> Cir. 2001). The Ninth Circuit has consistently held, as have other circuits, that Title VII does not impose individual liability for employment discrimination upon individual supervisors in their personal capacities. See, e.g., *Holly D. v. California Institute of Technology*, 339 F.3d 1158,

1 1179 (9<sup>th</sup> Cir. 2003). Plaintiff has filed no response in opposition to Schmidt's motion.

2 Accordingly, the Court concludes that the Defendant Schmidt's motion has merit, will be granted.

3 NOW, THEREFORE, IT IS ORDERED: Defendant Heather Schmidt's Motion To Dismiss  
4 Plaintiff's Title VII Claims for Failure To State A Claim [Dkt. # 14] is GRANTED and Plaintiff's  
5 claims for relief under Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e to 2000e-17  
6 (1988) as stated in the First, Third, Fourth, and Fifth Claims for Relief in Plaintiff's First Amended  
7 Complaint for Damages are hereby DISMISSED with prejudice.

8 DATED this 10<sup>th</sup> day of September, 2007.

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10 FRANKLIN D. BURGESS  
11 UNITED STATES DISTRICT JUDGE  
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